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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**
10 **AT SEATTLE**

11 CLINT ENGELBRETSON, individually and
12 on behalf of all others similarly situated,

Case No.

13 Plaintiff,

CLASS ACTION COMPLAINT

14 v.

15 JURY TRIAL DEMANDED

16 BAGELCODE USA, INC., a Washington
17 corporation; GOOGLE LLC, a Delaware
18 limited liability company; and GOOGLE
PAYMENT CORP., a Delaware corporation,

Defendants.

19 **NATURE OF THE ACTION**

20 1. Plaintiff Clint Engelbretson (“Plaintiff” or “Engelbretson”) individually and on
21 behalf of all others similarly situated, brings this case against Defendants, Bagelcode USA, Inc.
22 (developers of “Club Vegas” app), and Google LLC (“Google”) and Google Payment Corp
23 (“Google Payment”) (collectively the “Defendants”) to enjoin and obtain redress for Defendants’
24 operation of illegal online casino games.

25 2. Defendant Bagelcode USA Inc., (“Bagelcode”) is a California corporation with its

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1 headquarters in Redmond, Washington and is the developer, current owner, and operator of the app
2 “Club Vegas 2021: New Slots Games & Casino bonuses” (“Club Vegas”), an online casino game
3 offering a variety of slot machines games for consumers to play. The game design is rather
4 straightforward: consumers use real dollars to purchase online coins that they can use to bet on
5 online slot machines.

6 3. Washington's "Recovery of Money Lost at Gambling" statute, RCW 4.24.070,
7 provides that "all persons losing money or anything of value at or on any illegal gambling games
8 shall have a cause of action to recover from the dealer or player winning, or from the proprietor for
9 whose benefit such game was played or dealt, or such money or things of value won, the amount of
10 the money or the value of the thing so lost." The Club Vegas app is an illegal gambling game
11 because players of the game wages things of value (coins which can be purchased) and by an
12 element of chance (*e.g.*, by spinning an online slot machine) are able to obtain additional
13 entertainment and extend gameplay by winning additional chips.

14 4. Defendant Google LLC makes the “Club Vegas” gambling casino app available to
15 all android device users in the US via their popular platform, Google Play Store.

16 5. Defendant Google Payment Corp. processes the payments for all the in-app
17 purchases made on the “Club Vegas” android app. A portion of the in-app purchase payment is
18 paid to the app developer Defendant Bagelcode and a portion is retained by Google Payments.
19 Google Payments directly profits from the casino app.

20 6. Each of the Defendants has violated Washington law and has unlawfully received
21 and retained profits from tens of thousands of consumers by operating online gambling games
22 through the “Club Vegas” app. Accordingly, Plaintiff, on behalf of himself and a Class of similarly
23 situated individuals, brings this lawsuit to recover their losses and to obtain other appropriate relief
24 as provided for by Washington law.

JURISDICTION

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1 7. The Court has jurisdiction under the Class Action Fairness Act (“CAFA”), 28
2 U.S.C. § 1332(d), *et seq.* because there are over 100 class members, there is minimal diversity, and
3 there is over \$5,000,000 at issue when the claims of the Class are aggregated. Further, none of the
4 exceptions to CAFA applies.

5 8. This Court has personal jurisdiction over Defendants because: (1) Bagelcode is
6 headquartered in this District, (2) Bagelcode is registered in this State, (3) Defendants conduct a
7 significant amount of business in this District, and (4) because the wrongful conduct occurred in
8 and emanated from this District.

9 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1331(b) because Bagelcode
10 resides in this District, and because a substantial part of the events, acts or omissions giving rise to
11 the claims at issue occurred in this District. Furthermore, the decisions at the heart of the
12 allegations in this Complaint were made in and emanated from this District.

PARTIES

14 10. Plaintiff Clint Engelbretson is a natural person who resides in the state of
15 Minnesota.

16 11. Defendant Bagelcode USA, Inc., a subsidiary of South Korea based Bagelcode,
17 Inc., is a corporation organized and existing under the laws of Washington, with its principal place
18 of business at 8018 132nd Avenue NE, Redmond, WA 98052. Bagelcode conducts business
19 throughout this District and the United States.

20 12. Defendant Google LLC is a Delaware limited liability company with its principal
21 place of business in Mountain View, California. Google LLC is the primary operating subsidiary of
22 the publicly traded holding company Alphabet Inc. Google LLC does business by agent in this
23 state, district, and division.

24 13. Defendant Google Payment Corp. is a Delaware corporation with its principal place
25 of business in Mountain View, California. It is a wholly-owned subsidiary of defendant Google

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1 LLC. Google Payment Corp. provides in-app payment processing services to Android app
 2 developers and Android users, collecting a 30% commission¹ on most in-app purchases including
 3 the transactions which are the basis of this lawsuit. It does business by agent in this state, district,
 4 and division. For ease of reference, Google LLC and Google Payment Corp. will be referred to
 5 hereinafter collectively as “Google.”

6 FACTUAL BACKGROUND

7 *The Dangers of Gambling and the Proliferation of Online Gambling*

8 14. The dangers of gambling are well known. Gambling can manipulate the brain’s
 9 reward system similar to how drugs or alcohol can, leading to addiction. Gambling can easily grow
 10 into a compulsive gambling addiction, which may lead to extreme financial losses.

11 15. Lawmakers from various states are aware of the negative effects that come from
 12 gambling and gambling addictions and therefore have created laws to restrict and control gambling
 13 for the overall welfare of their constituents. These laws expressly define gambling as an illegal act,
 14 with many states imposing criminal penalties for organizing, conducting and facilitating gambling
 15 operations.

16 16. The Washington State Legislature has clearly expressed its intent to restrict
 17 gambling in this State. The Legislature has made this intent clear in its ‘Legislative declaration’
 18 (Section 9.46.010) which states:

19 *The public policy of the state of Washington on gambling is to keep the criminal
 20 element out of gambling and to promote the social welfare of the people by limiting
 21 the nature and scope of gambling activities and by strict regulation and control.*

22 *It is hereby declared to be the policy of the legislature, recognizing the close
 23 relationship between professional gambling and organized crime, to restrain all
 24 persons from seeking profit from professional gambling activities in this state; to
 25 restrain all persons from patronizing such professional gambling activities; to*

26 ¹ Transaction fees for merchants (Google’s payments center help). Link:
<https://support.google.com/paymentscenter/answer/7159343?hl=en#:~:text=The%20transaction%20fee%20for%20all,distribution%20partner%20and%20operating%20fees.>

1 *safeguard the public against the evils induced by common gamblers and common
2 gambling houses engaged in professional gambling; and at the same time, both to
3 preserve the freedom of the press and to avoid restricting participation by
4 individuals in activities and social pastimes, which activities and social pastimes
5 are more for amusement rather than for profit, do not maliciously affect the public,
6 and do not breach the peace.”²*

7 17. Due to modern technology, gambling is no longer confined to physical casinos.
8 Companies such as Defendants have brought gambling into the home.

9 18. All of the dangers of in-person gambling are also applicable to online gambling. In
10 fact, the dangers inherent in gambling are enhanced through online gambling. Online gambling
11 brings the casino straight to the consumer’s wireless smartphone, making it available for
12 consumption on a continuous basis. Also with the ease of in-app purchases just a click away inside
13 the gambling apps, consumers can spend money in gambling apps without much thought or
14 resistance. These gambling apps are a real boon for casinos as they can attract a much larger
15 audience than the confines of their brick-and-mortar casino to consumers nationwide and around
16 the globe at virtually no cost and with no restrictions. The look and feel of the gambling apps are
17 also uniquely designed to mirror the feel of being located in a physical casino, with continuous
18 noise of other players winning, a design used to keep the player playing and addicted.

19 19. Many states are well aware of the increased risks inherent in online gambling and
20 many that prohibit gambling also prohibit any and all forms of *online* gambling as well. The key
21 terms like gambling, game of chance, and things of value are carefully defined in state statutes to
22 include any and all online casino based gambling games, including “Club Vegas”, within those
23 prohibitions.

24 20. Washington State’s gambling laws impose the same prohibitions on online gaming
25 as they do to in-person gambling. Bagelcode, via the “Club Vegas” app, offers to sell various
26 packages of digital “coins” to consumers which the consumers then use to wager at the virtual slot
27 machines within the app. These packages of coins range in price from \$4.99 to \$99.99 each (Figure

26 2 Wash. Rev. Code § 9.46.010.

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1) depending upon the quantity the consumer purchases.

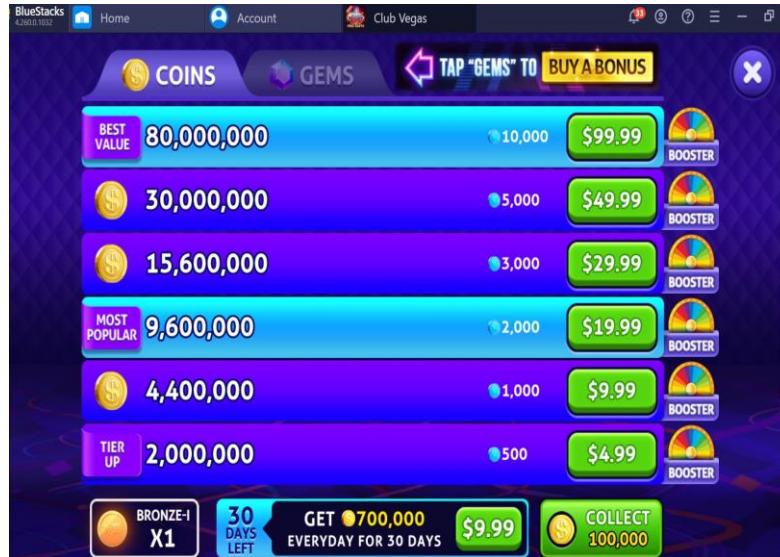


Figure 1

Consumers use these coins to wager bets at the various slot machines (Figure 2) available at the “Club Vegas” app.

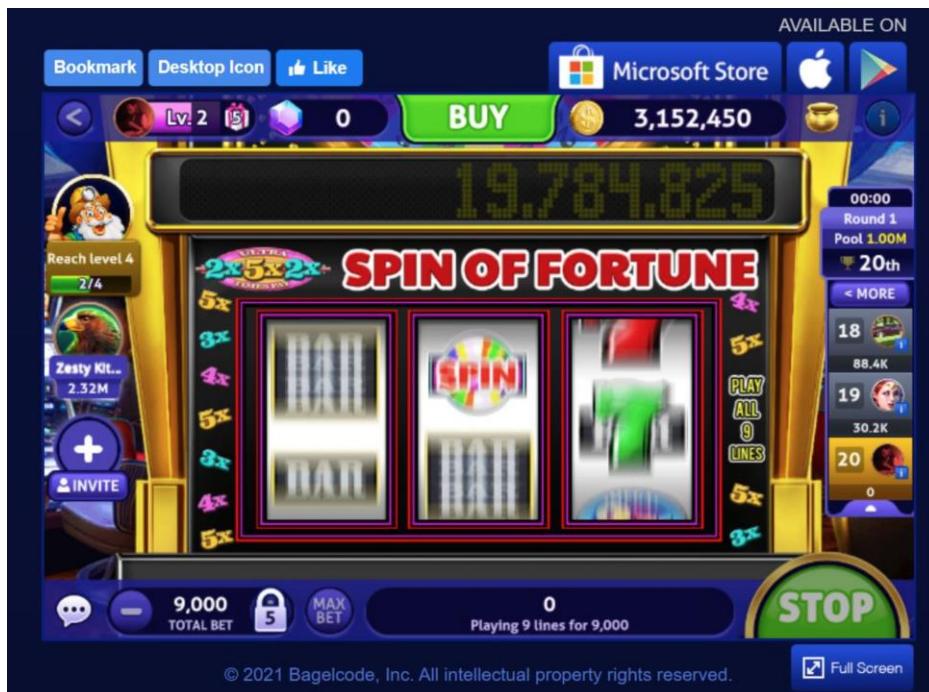


Figure 2

CLASS ACTION COMPLAINT

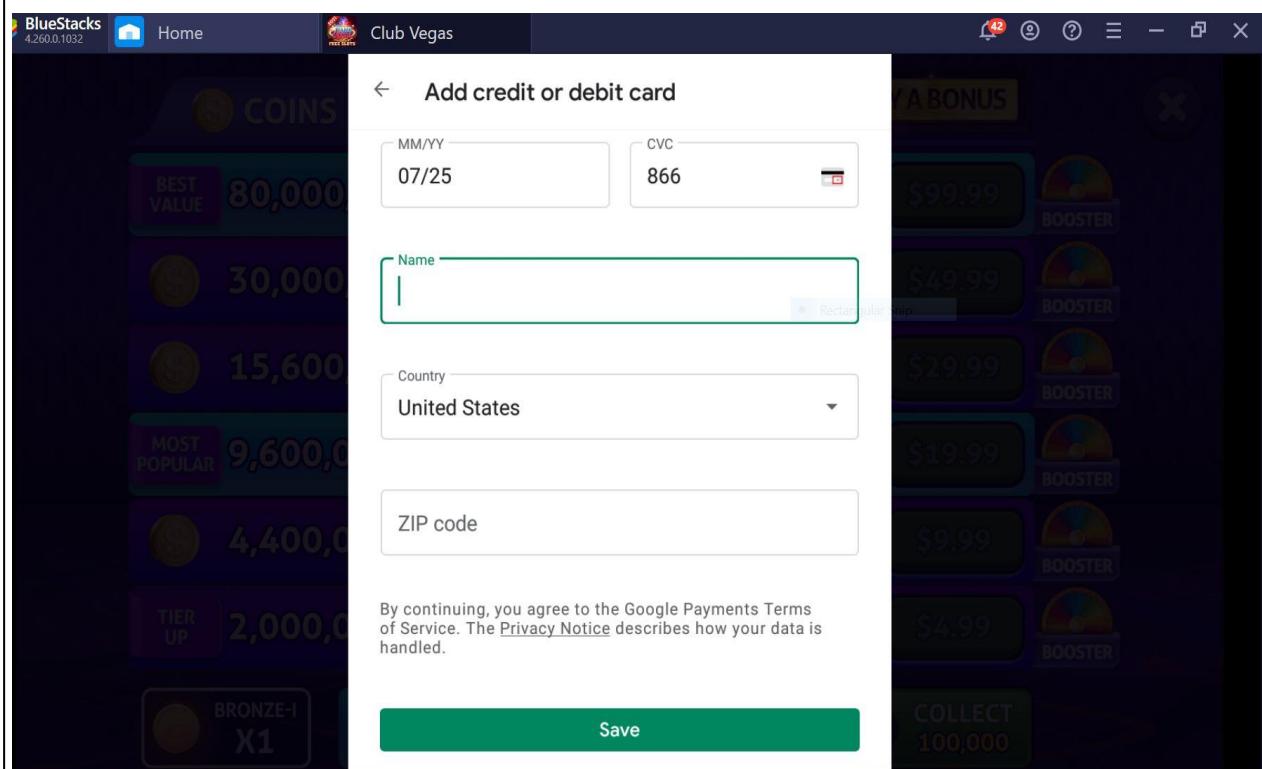
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1 21. Virtual casinos like Defendant should not be marketing to consumers who are
 2 located in states that prohibit gambling or operating any gambling device within those states.
 3 Google, despite having the technical capabilities to geoblock apps to block access from specific
 4 regions or states, chose instead to offer “Club Vegas” app to the Plaintiff, and other members of
 5 the class, who were residents of such states which prohibit gambling, and profit from the purchases
 6 made by them at the illegal gambling game.

7 22. Google asked for the Plaintiff’s ‘Country’ and ‘ZIP code’ when he added his
 8 credit/debit card for the payment method at the Google Play Store (Figure 3).



22 *Figure 3*

23 Google, despite knowing that the Plaintiff was paying and playing from within a state that prohibits
 24 gambling, allowed consumers to gamble through the app “Club Vegas” and also knowingly
 25 allowed and facilitated payments of illegal gambling games in violation of the state’s gambling
 26 laws. In addition, Google allowed Bagelcode to operate an online casino knowing that Bagelcode

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1 is headquartered in a state that prohibits it.

2 ***Bagelcode and Google***

3 23. Bagelcode is one of the leading mobile based slot machine game developers. It
 4 developed and operates the “Club Vegas” app. As per the data intelligence experts for mobile app
 5 markets, Bagelcode made \$2 million in revenue just from its Google Play Store purchases within
 6 one month, January 2021, with the “Club Vegas” app being the primary source of this revenue.³

7 24. Google operates the Google Play Store where developers can list their apps on
 8 Google’s platform and where consumers can download and interact with the apps.

9 25. In essence, Google provides access to consumers from all over the United States to
 10 the illegal gambling game “Club Vegas”, which is a virtual casino.

11 26. Google facilitates all the in-app purchases made at the “Club Vegas” app. The
 12 consumers pay Google, and then Google shares a portion of the proceeds of the illegal gambling
 13 game with the developers, here Bagelcode, after deducting a 30% transaction fee.⁴ Thus Google,
 14 together with Bagelcode, jointly operates the illegal gambling game “Club Vegas” for profit.
 15 Bagelcode is operating the “Club Vegas” app from within Washington state, which is a clear
 16 violation of the Washington gambling laws.

17 ***Bagelcode’s “Club Vegas” app offers slot machines and other illegal games of chance.***

18 27. The “Club Vegas” app offers a variety of virtual slot machines where the consumers
 19 can place bets with virtual ‘coins’ to win more of the same virtual ‘coins’. Slot machines are purely
 20 a game of chance where the skill of the player has no effect upon the outcome of the game. A
 21 consumer ‘bets’ a certain number of coins to ‘spin’ the slot machine. The player cannot take any
 22 action other than to press the ‘spin’ button. The game is a matter of chance.

23
 24 ³ Sensortower: Bagelcode <https://sensortower.com/android/publisher/bagelcode-free-slot-machine-games-developer/Bagelcode%3A%2BFree%2BSlot%2BMachine%2BGames%2BDeveloper>

25 ⁴ Google payments center help.
 26 Link:<https://support.google.com/paymentscenter/answer/7159343?hl=en#:~:text=The%20transaction%20fee%20for%20all,distribution%20partner%20and%20operating%20fees.>

1 28. Consumers playing at the “Club Vegas” app are wagering or betting coins at a game
 2 of chance to win more coins. The games themselves cost money to play as each spin costs a certain
 3 amount of coins. Some consumers play for free with the original allotment of coins the app
 4 provides while other consumers like the Plaintiff purchase more coins from Defendants to continue
 5 to play at these virtual slot machines.

6 29. Bagelcode also offers other prohibited games of chance within the “Club Vegas”
 7 app like the spin-a-wheel style game (Figure 4).



18 *Figure 4*

19 Consumers can buy ‘Daily Spin’ and ‘Mega Spin’ via in-app purchase to purchase a chance to spin
 20 the corresponding wheel. This game is similar to the slot machine in that it is purely a game of
 21 chance.

22 30. In addition, Bagelcode designed the “Club Vegas” game to lure consumers into
 23 addictive gambling behavior. The game is designed to initially give the consumer free coins to play
 24 with. Those coins are used to play slot machine type games in which the consumer gets the initial
 25 rush of winning coins. At a certain point, the consumer loses and runs out of coins, and the game

1 | prompts the user to purchase more coins.

2 31. The game is designed to consistently inundate the consumer with dopamine jolts
3 that keep the user hooked. The game employs these dopamine jolts through interspersing their
4 game with the sounds of winning slots (even though the consumer may only have the menu screen
5 open), music, sounds, and winning slot machine noises to keep the consumer engaged.

32. Bagelcode intentionally designed its game to be addictive, leading to more sales
6 from its consumers. For instance, the game provides additional coins to consumers who spend at
7 least 20 minutes on the Club Vegas app on any given session. Thus, the game is designed to reward
8 the consumer for spending time in the app leading to the consumer spending more time within the
9 casino style game. In addition, the game rewards consumers who play consecutively day after day
10 with free spins and coins. If a consumer has not logged in for a day, the game is designed to lure
11 the consumer back with a good deal to buy coins from BagelCode at a discounted price. All of
12 these tactics are specifically designed to make a gambling customer from an otherwise
13 entertainment seeking consumer.

14

Plaintiff and Other Class Members Paid and Lost Money at “Club Vegas”

16 33. In or around the beginning of 2019, the Plaintiff downloaded and played the “Club
17 Vegas” game. He played it for a short period of time. The Plaintiff began playing the “Club Vegas”
18 game again in November 2020.

19 34. Within just three weeks, between Dec 14, 2020 and Jan 3, 2021, Plaintiff purchased
20 coins from Bagelcode for over \$1700 to place bets and play at the various games of chance at the
21 “Club Vegas” app. Plaintiff therefore lost the sum of \$1700 which the Defendants, together, won,
22 through the operation of the gambling games at the “Club Vegas” app.

23 35. Along with the Plaintiff, other members of the Class, have also paid and lost money
24 to the Defendants

CLASS ACTION ALLEGATIONS

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1 36. Plaintiff brings this action in accordance with Federal Rule of Civil Procedure
2 23(b)(2) and Rule 23(b)(3) on behalf of herself and Class defined as follows:

3 All persons in the United States who played at the “Club Vegas” android app
4 developed and offered by Bagelcode on or after March 2, 2017 and lost purchased
chips by wagering at Defendants’ “Club Vegas”.

5 37. The following people are excluded from the Class: (1) any Judge or Magistrate
6 presiding over this action and members of their families; (2) Defendant, Defendant’s subsidiaries,
7 parents, successors, predecessors, contractors, and any entity in which the Defendant or its parents
8 have a controlling interest and their current or former employees, officers and directors; (3)
9 persons who properly execute and file a timely request for exclusion from the Class; (4) persons
10 whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5)
11 Plaintiff’s counsel and Defendant’s counsel; and (6) the legal representatives, successors, and
12 assignees of any such excluded persons.

13 38. Plaintiff anticipates the need to amend the class definition following a period of
14 appropriate class-based discovery.

15 39. **Numerosity:** The exact numbers of members within the Class are unknown and not
16 available to Plaintiff at this time, but individual joinder is impracticable. On information and belief,
17 tens of thousands of consumers fall into the definition of the Class. Members of the Class can be
18 identified through Defendant’s records and the records of third parties.

19 40. **Typicality:** Plaintiff’s claims are typical of the claims of other members of the
20 Class in that Plaintiff and the members of the Class sustained the same legal injuries and damages
21 arising out of Defendant’s uniform wrongful conduct. If Plaintiff has an entitlement to relief, so do
22 the rest of the class members.

23 41. **Adequate Representation:** Plaintiff will fairly and adequately represent and
24 protect the interests of the Class and has retained counsel competent and experienced in complex
25 class actions. Neither Plaintiff nor his counsel has any interest in conflict with or antagonistic to

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those of the Class, and Defendant has no defenses unique to Plaintiff.

42. **Commonality and Predominance:** There are questions of law and fact common to the claims of Plaintiff and the Class, and those questions will drive the litigation and predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not necessarily limited to the following:

- (a) Whether Defendants' online casino games are "gambling" as defined by Washington law;
 - (b) Whether Plaintiff and each member of the Class lost money or anything of value by gambling at Defendants' online casino;
 - (c) Whether Defendants violated the "Recovery of money lost at gambling" statute, RCW 4.24.070 or the Washington Consumer Protection Act; and
 - (d) Whether Defendants have been unjustly enriched as a result of their conduct.

43. Conduct Similar Towards All Class Members: By committing the acts set forth in this pleading, Defendants have acted or refused to act on grounds substantially similar towards all members of the Class so as to render certification of the Class for final injunctive relief and corresponding declaratory relief appropriate under Rule 23(b)(2).

44. **Superiority & Manageability:** This case is also appropriate for class certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy. Joinder of all parties is impracticable, and the damages suffered by the individual members of the Class will likely be relatively small, especially given the burden and expense of individual prosecution of the complex litigation necessitated by Defendant’s actions. It would be virtually impossible for the individual members of the Class to obtain effective relief from Defendant’s misconduct. Even if members of the Class could sustain such individual litigation, it would still not be preferable to a certified class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual

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1 controversies presented in this Complaint. By contrast, a class action presents far fewer
 2 management difficulties and provides the benefits of single adjudication, economies of scale, and
 3 comprehensive supervision by a single Court. Economies of time, effort and expense will be
 4 fostered and uniformity of decisions ensured. Also, there are no pending governmental actions
 5 against Defendant for the same conduct.

6 **FIRST CAUSE OF ACTION**

7 **Violation of Revised Code of Washington § 4.24.070**
 (On behalf of Plaintiff and the Class)

8 45. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

9 46. Plaintiff, members of the Class, and Defendants are all “persons” as defined by
 10 RCW § 9.46.0289.

11 47. Washington’s “Recovery of money lost at gambling” statute, RCW 4.24.070,
 12 provides that “all persons losing money or anything of value at or on any illegal gambling games
 13 shall have a cause of action to recover from the dealer or player winning, or from the proprietor for
 14 whose benefit such game was played or dealt, or such money or things of value won, the amount of
 15 the money or the value of the thing so lost.”

16 48. “Gambling,” defined by RCW § 9.46.0237, “means staking or risking something of
 17 value upon the outcome of a contest of chance or a future contingent event not under the person's
 18 control or influence.”

19 49. Bagelcode's virtual “coins” sold to consumers to place bets on its virtual slot
 20 machines are “thing[s] of value” under RCW § 9.46.0285.

21 50. “Club Vegas” offers a collection of illegal gambling games as all the games offered
 22 are pure games of chance at which players wager things of value (the coins) to stand a chance to
 23 win more coins which will provide an extension to their privilege of playing at the illegal games of
 24 chance without charge.

25 51. Defendants are the proprietors for whose benefit the online gambling games are

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1 played because they own the online gambling games and operate those games for their own profit.

2 52. Plaintiff and the Class gambled when they purchased chips to wager at Defendants' 3 online gambling games. Plaintiff and each member of the Class staked money, in the form of chips 4 purchased with money, at Defendants' games of chance (e.g., Defendants' Slot machines) for the 5 chance of winning additional things of value (e.g., chips that extend gameplay without additional 6 charge).

7 53. In addition, Defendants' online gambling games are not "pinball machine[s] or 8 similar mechanical amusement device[s]" as contemplated by the statute because:

- 9 a. the games are electronic rather than mechanical;
10 b. the games confer replays but they are recorded and can be redeemed on separate
11 occasions (i.e., they are not "immediate and unrecorded"); and
12 c. the games contain electronic mechanisms that vary the chance of winning free games or
 the number of free games which may be won (e.g., the games allow for different wager
 amounts).

13 54. RCW § 9.46.0285 states that a "'Thing of value,' as used in this chapter, means any
14 money or property, any token, object or article exchangeable for money or property, or any form of
15 credit or promise, directly or indirectly, contemplating transfer of money or property or of any
16 interest therein, or involving extension of a service, entertainment or a privilege of playing at a
17 game or scheme without charge."

18 55. The "coins" Plaintiff and members of the Class had the chance of winning in
19 Defendants' online gambling games are "thing[s] of value" under Washington law because they
20 are credits that involve the extension of entertainment and a privilege of playing a game without
21 charge.

22 56. Defendants' online gambling games at "Club Vegas" are "Contest[s] of chance," as
23 defined by RCW § 9.46.0225, because they are "contest[s], game[s], gaming scheme[s], or gaming
24 device[s] in which the outcome[s] depend[s] in a material degree upon an element of chance,
25 notwithstanding that skill of the contestants may also be a factor therein." Defendants' online
26

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1 gambling games are programmed to have outcomes that are determined entirely upon chance and a
2 contestant's skill does not affect the outcomes in any way.

3 57. RCW § 9.46.0201 defines "Amusement game[s]" as games where, "The outcome
4 depends in a material degree upon the skill of the contestant," among other requirements.
5 Defendants' online gambling games are not "Amusement game[s]" because their outcomes are
6 dependent entirely upon chance and not upon the skill of the player and because the games are
7 "contest[s] of chance," as defined by RCW § 9.46.0225.

8 58. As a direct and proximate result of Defendants' gambling game "Club Vegas",
9 Plaintiff and each member of the Class have lost money wagering at Defendants' games of chance.
10 Plaintiff, on behalf of himself and the Class, seeks an order (1) requiring Defendants to cease the
11 operation of its gambling games; and/or (2) awarding the recovery of all lost monies, interest, and
12 reasonable attorneys' fees, expenses, and costs to the extent allowable.

13 59. RCW § 4.24.090 -states:

14 "Validity of evidence of gambling debt: All notes, bills, bonds, mortgages, or other
15 securities, or other conveyances, the consideration for which shall be money, or
16 other things of value, won by playing at any unlawful game, shall be void and of no
17 effect, as between the parties thereto and all other persons, except holders in good
18 faith, without notice of the illegality of such contract or conveyance." RCW §
19 4.24.090

20 60. There's no agreement between Bagelcode and the Plaintiff, or any other member of
21 the Class, as the players never actively accepted any terms or gave their consent to any such terms.
22 Even if Bagelcode claims to have the users' consent to any such agreement or contract or terms of
23 service, the subject matter of any such contract is for playing at unlawful gambling games. Hence
24 any such contract is void under RCW § 4.24.090.

25 **SECOND CAUSE OF ACTION**

26 **Violation of Washington Consumer Protection Act, RCW § 19.86.010 et seq.**
27 **(On behalf of Plaintiff and the Class)**

28 61. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

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1 62. Washington's Consumer Protection Act, RCW § 19.86.010 et seq. ("CPA"),
2 protects both consumers and competitors by promoting fair competition in commercial markets for
3 goods and services.

4 63. To achieve that goal, the CPA prohibits any person from using "unfair methods of
5 competition or unfair or deceptive acts or practices in the conduct of any trade or commerce...."
6 RCW § 19.86.020.

7 64. The CPA states that "a claimant may establish that the act or practice is injurious to
8 the public interest because it . . . Violates a statute that contains a specific legislative declaration of
9 public interest impact."

10 65. Defendants violated RCW § 9.46.010, et seq. which declares that:

11 *"The public policy of the state of Washington on gambling is to keep the criminal
12 element out of gambling and to promote the social welfare of the people by limiting
13 the nature and scope of gambling activities and by strict regulation and control. It
14 is hereby declared to be the policy of the legislature, recognizing the close
15 relationship between professional gambling and organized crime, to restrain all
16 persons from seeking profit from professional gambling activities in this state; to
17 restrain all persons from patronizing such professional gambling activities; to
18 safeguard the public against the evils induced by common gamblers and common
19 gambling houses engaged in professional gambling; and at the same time, both to
20 preserve the freedom of the press and to avoid restricting participation by
21 individuals in activities and social pastimes, which activities and social pastimes
22 are more for amusement rather than for profit, do not maliciously affect the public,
23 and do not breach the peace."*

24 66. Defendants violated RCW § 9.46.010, et seq., because Defendants' online games
25 are illegal online gambling games.

26 67. Defendants' wrongful conduct occurred in the conduct of trade or commerce— i.e.,
27 while Defendants were engaged in the operation of making computer games available to the
28 public.

29 68. Defendants' acts and practices were and are injurious to the public interest because
30 Defendants, in the course of their business, continuously advertised to and solicited the general

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1 public in Washington State and throughout the United States to play their unlawful online
2 gambling games of chance. This was part of a pattern or generalized course of conduct on the part
3 of Defendants, and many consumers have been adversely affected by Defendants' conduct and the
4 public is at risk.

5 69. Defendants have profited from their operation of unlawful games of chance,
6 amassing millions of dollars from the losers of their games of chance.

7 70. As a result of Defendants' conduct, Plaintiff and the Class members were injured in
8 their business or property—i.e., economic injury—in that they lost money using the virtual coins to
9 wager on Defendants' unlawful games of chance at the “Club Vegas” app.

10 71. Defendants' unfair or deceptive conduct proximately caused Plaintiff's and the
11 Class members' injuries because, but for the challenged conduct, Plaintiff and the Class members
12 would not have lost money wagering at or on Defendants' games of chance, and they did so as a
13 direct, foreseeable, and planned consequence of that conduct.

14 72. Plaintiff, on his own behalf and on behalf of the Class, seeks to enjoin further
15 violation and recover actual damages and treble damages, together with the costs of suit, including
16 reasonable attorneys' fees.

THIRD CAUSE OF ACTION
Unjust Enrichment/Disgorgement
(On behalf of Plaintiff and the Class)

20 73. Plaintiff incorporates by reference the foregoing allegations as if fully set forth
herein.

22 74. Plaintiff and the Class have conferred a benefit upon Defendants in the form of the
23 money Defendants received from them for the purchase of chips to wager at Defendants' online
gambling games.

25 75. Defendants appreciate and/or have knowledge of the benefits conferred upon them
by Plaintiff and the Class.

CLASS ACTION COMPLAINT

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76. Under principles of equity and good conscience, Defendants should not be permitted to retain the money obtained from Plaintiff and the members of the Class, which Defendants have unjustly obtained as a result of their unlawful operation of unlawful online gambling games. As it stands, Defendants have retained millions of dollars in profits generated from their unlawful games of chance and should not be permitted to retain those ill-gotten profits.

77. Accordingly, Plaintiff and the Class seek full disgorgement and restitution of any money Defendants have retained as a result of the unlawful and/or wrongful conduct alleged herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and the Class, prays for the following relief:

- A. An order certifying the Class as defined above, appointing Plaintiff as the representative of the Class, and appointing his counsel as Class Counsel;
 - B. An order declaring that Defendant's actions, as set out above, are unlawful;
 - C. An injunction requiring Defendants to cease all unlawful gambling activities;
 - D. Entering judgment against Defendants in the amount of the monetary losses suffered by Plaintiff and the members of the Class;
 - E. An award damages to Plaintiff and the Class in an amount to be determined at trial;
 - F. Awarding restitution to Plaintiff and the Class in an amount to be determined at trial, and requiring disgorgement of all benefits that Defendants unjustly received;
 - G. An award of reasonable attorneys' fees and costs to be paid out of the common fund prayed for above;
 - H. Awarding pre- and post-judgment interest, to the extent allowable; and
 - I. Such other and further relief that the Court deems reasonable and just.

JURY DEMAND

CLASS ACTION COMPLAINT

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1 Plaintiff requests a trial by jury of all claims that can be so tried.

2 Dated: March 5, 2021

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5 **CLINT ENGELBRETSON**, individually and on
6 behalf of all others similarly situated,

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By: s/ *Eric R. Draluck*
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Attorneys for Plaintiff and the Class

* *Pro Hac Vice Application to be filed*

CLASS ACTION COMPLAINT

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